

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JANELL PATRICE ANDRADE,

Plaintiff,

vs.

Civil No. 13-780 SMV

**CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,**

Defendant.

**ORDER GRANTING PLAINTIFF'S
MOTION FOR ATTORNEY FEES AND COSTS UNDER EAJA**

THIS MATTER is before the Court on Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support [Doc. 28], filed on May 28, 2015. Plaintiff requests attorney fees in the amount of \$5,564.30 and \$400 in costs. The Commissioner does not object to Plaintiff's request for attorney fees and costs. [Doc. 29]. The Court being otherwise fully advised in the premises, **FINDS** that the motion is well-taken and will be **GRANTED**.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion [Doc. 28] is **GRANTED**, and Plaintiff Janelle Andrade is authorized to receive \$5,564.30 for payment to her attorney for services before this Court, and \$400 in costs as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with Manning v. Astrue, 510 F.3d 1246, 1255 (10th Cir. 2007).

IT IS FURTHER ORDERED that if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, counsel shall refund the smaller

award to Plaintiff pursuant to Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002) (“Congress harmonized fees payable by the Government under EAJA with fees payable under § 406(b) out of the claimant’s past-due Social Security benefits in this manner: Fee awards may be made under both prescriptions, but the claimant’s attorney must refun[d] to the claimant the amount of the smaller fee.”) (internal quotation marks omitted).

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge
Presiding by Consent

Submitted By:

/s/Michael D. Armstrong

Michael D. Armstrong
Attorney for Plaintiff

Email approval on 6/15/15 by:

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